

21 C.J.S. Courts § 223

Corpus Juris Secundum | May 2023 Update

Courts

M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Amy G. Gore, J.D., of the staff of the National Legal Research Group, Inc; and Lonnie E. Griffith, Jr., J.D.

VI. Rules of Adjudication, Decisions, and Opinions

B. Stare Decisis

4. Dicta

§ 223. Dicta, generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, Courts 92

Dictum is a statement on a matter that is not necessarily involved in the case and is not binding as authority.

Dictum is an opinion expressed by a court but which, not being necessarily involved in the case, is not the court's decision.¹ It is an opinion expressed by a judge on a point that is not necessary to the case² or a statement in an opinion that is not responsive to any issue³ and not necessary to decide the case.⁴ A statement is dictum if it could have been deleted without seriously impairing the analytical foundations of the holding and—being peripheral—may not have received the full and careful consideration of the court that uttered it.⁵ A statement is not dictum if it is necessary to the result or constitutes an explication of the governing rules of law⁶ or if the question was directly involved in the issues of law and the attention of the court was directly drawn to and distinctly expressed upon the subject.⁷ Thus, once a court determines that a statute does not apply to a case, any statement concerning the statute's constitutionality is dictum.⁸ Similarly, when a court dismisses a case for lack of subject-matter jurisdiction, any further discussion of the merits is mere dictum.⁹

For purposes of stare decisis, dictum is not a holding.¹⁰ Accordingly, dictum is ordinarily not binding as authority or precedent.¹¹ Thus, dicta of federal courts of appeals are not binding on future panels.¹² However, United States Supreme Court dicta binds a lower court almost as firmly as by the Supreme Court's outright holdings, particularly when the dicta is recent and not enfeebled by later statements.¹³

Since dictum "settles nothing,"¹⁴ the Supreme Court of the United States does not decide important questions of law by relying on cursory dicta that was inserted in related cases.¹⁵ An express holding controls over any later contrary dictum.¹⁶ Similarly, the United States Supreme Court is not necessarily bound by dicta when more complete argument demonstrate that the dicta is not correct.¹⁷

CUMULATIVE SUPPLEMENT

Cases:

A holding in a published Supreme Court opinion, which is binding precedent, is the Court's determination of a matter of law pivotal to its decision, while dictum is anything not necessary to the determination of an issue on appeal. *Stivers v. Beshear*, 659 S.W.3d 313 (Ky. 2022).

[END OF SUPPLEMENT]

Westlaw. © 2023 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

Footnotes

1 Ariz.—[Alejandro v. Harrison](#), 223 Ariz. 21, 219 P.3d 231 (Ct. App. Div. 1 2009).

Ark.—[Burnette v. Perkins & Associates](#), 343 Ark. 237, 33 S.W.3d 145 (2000).

Mich.—[Wold Architects and Engineers v. Strat](#), 474 Mich. 223, 713 N.W.2d 750 (2006).

2 U.S.—[Union Tank Line v. Wright](#), 249 U.S. 275, 39 S. Ct. 276, 63 L. Ed. 602 (1919).

N.C.—[Suskin v. Hodges](#), 216 N.C. 333, 4 S.E.2d 891 (1939).

Pa.—[In re Lippincott's Estate](#), 333 Pa. 48, 3 A.2d 363 (1939).

Utah—[Lagoon Jockey Club v. Davis County](#), 72 Utah 405, 270 P. 543 (1928).

3 Ark.—[Ward v. Williams](#), 354 Ark. 168, 118 S.W.3d 513 (2003).

Conn.—[Gladysz v. Planning and Zoning Com'n of Town of Plainville](#), 256 Conn. 249, 773 A.2d 300 (2001).

Ill.—[People v. Williams](#), 204 Ill. 2d 191, 273 Ill. Dec. 250, 788 N.E.2d 1126 (2003).

Minn.—[State v. Hess](#), 684 N.W.2d 414 (Minn. 2004).

Neb.—[Pribil v. Koinzan](#), 266 Neb. 222, 665 N.W.2d 567 (2003).

S.D.—[Moeller v. Weber](#), 2004 SD 110, 689 N.W.2d 1 (S.D. 2004).

4 U.S.—[UPS Supply Chain Solutions, Inc. v. Megatrux Transp., Inc.](#), 750 F.3d 1282 (11th Cir. 2014); [Adams v. United States](#), 2016 WL 1069071 (Ct. Fed. Cl. 2016).

Ark.—[Ward v. Williams](#), 354 Ark. 168, 118 S.W.3d 513 (2003).

Conn.—[Gladysz v. Planning and Zoning Com'n of Town of Plainville](#), 256 Conn. 249, 773 A.2d 300 (2001).

Ill.—[People v. Williams](#), 204 Ill. 2d 191, 273 Ill. Dec. 250, 788 N.E.2d 1126 (2003).

Ind.—[Henley v. State](#), 881 N.E.2d 639 (Ind. 2008).

Minn.—[State v. Hess](#), 684 N.W.2d 414 (Minn. 2004).

Neb.—[Pribil v. Koinzan](#), 266 Neb. 222, 665 N.W.2d 567 (2003).

S.D.—[Moeller v. Weber](#), 2004 SD 110, 689 N.W.2d 1 (S.D. 2004).

Enactment ruled unconstitutional in toto

Since a certain decision held a particular enactment unconstitutional in toto on separation-of-powers and one-subject rule grounds, any substantive discussion within that case of the merits of particular tort-reform legislation within the enactment was dicta.

Ohio—[Groch v. Gen. Motors Corp.](#), 117 Ohio St. 3d 192, 2008-Ohio-546, 883 N.E.2d 377 (2008).

5 U.S.—[U.S. v. Segura](#), 747 F.3d 323 (5th Cir. 2014).

6 U.S.—[U.S. v. Segura](#), 747 F.3d 323 (5th Cir. 2014).

7 Md.—[Bowers v. State](#), 2016 WL 1254615 (Md. Ct. Spec. App. 2016).

8 La.—[Avants v. Kennedy](#), 752 So. 2d 150 (La. 2000).

9 Conn.—[State v. Singleton](#), 274 Conn. 426, 876 A.2d 1 (2005).

10 Alaska—[Joseph v. State](#), 26 P.3d 459 (Alaska 2001).

11 U.S.—[McDaniel v. Sanchez](#), 452 U.S. 130, 101 S. Ct. 2224, 68 L. Ed. 2d 724 (1981); [Adams v. United States](#), 2016 WL 1069071 (Ct. Fed. Cl. 2016).

Ind.—[Henley v. State](#), 881 N.E.2d 639 (Ind. 2008).

Kan.—[Law v. Law Co. Bldg. Associates](#), 295 Kan. 551, 289 P.3d 1066 (2012).

Pa.—[Thomas Jefferson University Hospitals, Inc. v. Pennsylvania Dept. of Labor and Industry](#), 131 A.3d 567 (Pa. Commw. Ct. 2016).

Broad unnecessary language

Broad language of opinion that was unnecessary to the court's decision could not be considered binding authority.

U.S.—[Kastigar v. U.S.](#), 406 U.S. 441, 92 S. Ct. 1653, 32 L. Ed. 2d 212 (1972).

Federal dicta

A state supreme court is not bound by the dicta of federal district courts.

Haw.—[Chun v. Board of Trustees of Employees' Retirement System of State of Hawaii](#), 92 Haw. 432, 992 P.2d 127 (2000).

12 U.S.—[Diaz-Rodriguez v. Pep Boys Corp.](#), 410 F.3d 56 (1st Cir. 2005) (abrogated on other grounds by, [Hertz Corp. v. Friend](#), 559 U.S. 77, 130 S. Ct. 1181, 175 L. Ed. 2d 1029 (2010)).

13 U.S.—[Independence Institute v. Williams](#), 812 F.3d 787 (10th Cir. 2016).

14 U.S.—[Jama v. Immigration and Customs Enforcement](#), 543 U.S. 335, 125 S. Ct. 694, 160 L. Ed. 2d 708, 2 A.L.R. Fed. 2d 675 (2005).

15 U.S.—[In re Permian Basin Area Rate Cases](#), 390 U.S. 747, 88 S. Ct. 1344, 20 L. Ed. 2d 312 (1968).

16 Fla.—[F.B. v. State](#), 852 So. 2d 226 (Fla. 2003).

17 U.S.—[Kirtsaeng v. John Wiley & Sons, Inc.](#), 133 S. Ct. 1351, 185 L. Ed. 2d 392, 75 A.L.R. Fed. 2d 767 (2013).

End of Document

© 2023 Thomson Reuters. No claim to original U.S. Government Works.